

AN ORDINANCE AMENDING TITLE 20 (ZONING) OF THE EL PASO MUNICIPAL CODE BY AMENDING CHAPTER 20.67 (HISTORIC LANDMARK PRESERVATION). THE PENALTY IS AS PROVIDED IN 20.68 OF THE CITY OF EL PASO MUNICIPAL CODE.

WHEREAS, the zoning regulations of the City of El Paso have been established for the purpose of promoting the health, safety, morals and general welfare of its citizens;

WHEREAS, the zoning regulations have been adopted in conformance with *The Plan for El Paso*;

WHEREAS, The Plan for El Paso recommends that the City work toward preserving historic structures;

WHEREAS, the City of El Paso Historic Landmark Commission and Building and Zoning Advisory Committee recommend certain changes intended to better preserve historic structures;

WHEREAS, recommended changes herein are consistent and in harmony with State of Texas and National Register guidelines for historic preservation;

WHEREAS, the Development Coordinating Committee and City Plan Commission recommend certain changes to Chapter 20.67 to better preserve historic structures within the City; and

WHEREAS, the El Paso City Council finds that the amendments to Title 20 as herein provided will have no negative impact upon the public health, safety, morals, and general welfare of the City, and that the zoning regulations as amended will carry out the purpose and spirit of the policies expressed in *The Plan for El Paso*,

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

1. That Title Twenty shall be amended to delete Chapter 20.67 in its entirety and replace as follows:

HISTORIC LANDMARK PRESERVATION

Sections:

20.67.010 Definitions.

20.67.020 Declaration of policy.

20.67.030 Historic Landmark Commission Creation.

20.67.040 Historic Landmark Commission Functions.

20.67.050 Historic Landmark Commission Meetings.

20.67.060 Historic Preservation Officer.

- 20.67.070 Procedure for Designation of Landmarks and Historic Districts.**
- 20.67.080 Historic Landmarks Designation Criteria to be used in designation.**
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- 20.67.130 Options for the Commission to Recommend Acquisition of Historic Landmarks.**
- 20.67.140 Alterations and changes to landmarks and H-overlay properties; Administrative Review Approval.**
- 20.67.150 Modification of Certificate of Appropriateness.**
- 20.67.160 Economic Hardship Application Procedure.**
- 20.67.170 Enforcement.**
- 20.67.180 Historic Landmark Demolition or Removal.**
- 20.67.190 Prevention of Demolition by Neglect.**
- 20.67.200 Penalty for demolition or alteration without a permit.**
- 20.67.210 Ad Valorem Tax Incentives for Historic Properties**
- 20.67.220 Historic Landmark Recognition.**
- 20.67.230 Notice.**
- 20.67.240 Severability.**
- 20.67.250 Zoning board of adjustment.**
- 20.67.260 Appeal to the City Council.**

*Prior history. Prior code □ 25-35.3; Ords. 6243, 6332, 6391, 8886, 9610 and 10623.

20.67.010 Definitions.

Definitions which appear below relate only to this chapter of this code:

1. "Addition" means a completely new structure or new component to an existing structure.
2. "Alteration" means any construction or change of the exterior of a building, site or structure including, but not limited to, the erection, construction, reconstruction or removal of any structure or of an interior space designated as a landmark. Alteration shall include, but not be limited to, the changing of roofing or siding materials; changing, eliminating or adding doors, door frames, windows, window frames, shutters, fences, railings, porches, balconies, signs or other ornamentation; the changing of paint color; re-grading; fill; imploding or other use of dynamite. Alteration shall not include ordinary repair and maintenance. An alteration shall be deemed to be major if it is the kind of work which is customarily done with the aid of plans or specifications; an alteration shall be deemed to be "minor" if it is the kind of work which is customarily done without the aid of plans and which would not substantially change the external appearance of the building, site, or structure.
3. "Administrative Review" means the approval process by which the Director of Planning or his/her designee administratively approves or denies particular alterations, as specified in the Administrative Review Design Guidelines.
4. "Appurtenance" means any accessory or subordinate building, object or structure, fence, street furniture, fixture, vending machine, fountain or public artwork, located on the grounds of an historic landmark or in an historic district.
5. "Archaeology" means the science or study of the material remains of past life or activities and the physical site or context in which they are found pursuant to the Department of Interior's Archaeological Resources Protection Act of 1979, as amended.
6. "Area" means a specific geographic division of the City of El Paso.

7. "Building" means a structure created to shelter people or things, such as a house, barn, church, hotel, warehouse or similar structure, including an historically related complex, such as a courthouse and jail or a house and barn.

8. "Cemetery" means any site, as defined by any Texas Statute, which contains at least one burial, marked or previously marked, dedicated to and used or intended to be used for the permanent interment of the human dead, to include perpetual care and non-perpetual care cemeteries, even though in a condition of neglect or abuse.

9. "Certificate of Appropriateness" means the certificate issued by the Historic Landmark Commission after project application review which states that the proposed project is appropriate for the Historic District for which it is requested.

10. "Character-defining architectural element" means a distinctive architectural feature, quality, or combination thereof, that distinguishes one structure from another or which is unique to that structure.

11. "Cluster" means a group of cultural resources with compatible buildings, objects or structures geographically or thematically relating to and reinforcing one another through design, setting, materials, workmanship, congruency and association.

12. "Construction" means the act of adding new material to an existing building, structure or site.

13. "Contributing property" means a building, object, site or structure, in an historic district or "cluster" that contributes to the district's or cluster's historical significance through location, design, setting, materials, workmanship, and/or association.

14. "Cultural" means the quality in a society that arises from an interest in or an acquaintance with what is generally regarded as excellence in arts, literature, architecture, manners, or scholarly pursuits.

15. "Cultural resources" means districts, sites, or structures that possess integrity of location, design, setting, materials, workmanship, congruency, and association in such a way that they are symbolic of excellence in North American, Texas, or El Paso history, architecture, archeology, or culture.

16. "Demolition" means any act or process that destroys, razes, or permanently impairs the structural integrity, in whole or in part, of any mobile or immobile structure governed by this chapter.

17. "Design guidelines" means standards adopted by the El Paso City Council which are intended to preserve the historic, cultural and architectural character of an area or of a building, object, site or structure, and which are available to property owners through the City's Department of Planning, Research & Development.

18. "District" means a geographically definable area, possessing a significant concentration of buildings, objects, sites or structures united by past events or aesthetically by plan or physical development, which may also comprise individual elements separated geographically but thematically linked by association or history.

19. "Economic return" means a financial profit or capital appreciation from use or ownership of a building, object, site or structure.

20. "Effect" means a change in the quality of the historical, architectural, archaeological, or cultural significance of a resource, or in the characteristics that qualify the resource as historically important.

21. "Effect, Adverse" Adverse effect means a negative change in the quality of the historical, architectural, archaeological or cultural significance of a resource, or in the characteristics that qualify the resource as historically important.

22. "Enclosure" refers to fences, walls or other physical features used to contain open space or provide "privacy."

23. "Exceptional historic landmark" means

(i) Those buildings, objects, sites, site improvements, appurtenances or structures of the highest and most unique historical, cultural, architectural or archaeological importance and whose demolition or destruction would constitute an irreplaceable loss to the quality and character of El Paso; and

(ii) those inventoried interior spaces designed or intended to be occupied as part of the structure or which are accessible to the public.

(iii) exceptional historic landmarks are also referred to as landmarks within this chapter.

24. "Exterior Architectural Style" means the architectural character and general composition of the exterior of a structure, including but not limited to the kind, color and texture of the building material and the type, design and character of all windows, door, light fixtures, signs and appurtenant elements.

25. "Historic district" means an area defined as an "historic district" by City Council, state or federal authority and which contains within definable geographic boundaries one or more "H-overlay" properties or clusters, including their accessory buildings, fences and other appurtenances, and natural resources having historical, cultural and archaeological significance, and which may have within its boundaries other buildings or structures, that, while not of such historical, cultural, architectural or archaeological significance as to be designated H-overlay properties, nevertheless contribute to the overall visual setting of, or characteristics of the "H-overlay properties" or landmarks located within the district.

26. "Historic interiors" means an architecturally or historically significant interior space which remains substantially intact in terms of: (1) original configuration, (2) original volume, and/or (3) original architectural ornamentation and decoration; which exhibit surviving original historical finishes or has the potential for accurate restoration of such finishes; and which is open, to be used by, or may be used by the public.

27. "Historic landmark" also referred to as an "H" overlay property, means those buildings, objects, sites or structures of historical, cultural, architectural or archaeological importance and whose demolition or destruction would constitute an irreplaceable loss to the quality and character of El Paso; certain inventoried interior spaces which are accessible to the public; such buildings, objects, sites or structures, their appurtenances, and the property which they are located, having been so designated by City Council. All properties on the National register of Historic Places as well as those designated as Texas Historic Landmarks shall additionally be regulated consistent with historic landmarks pursuant to Chapter 20.67 of the Zoning Ordinance.

28. "Historic Preservation Officer" shall be the Director of Planning or his/her designee who shall serve as the Historic Preservation Officer for the City of El Paso and who shall oversee the Historic Preservation Program for the City of El Paso.

29. "Intrusion" means a building, object, site or structure which detracts from a district's or cluster's historical significance because of its incompatibility with the district's or cluster's sense of time, place, and historical development; or its incompatibility of scale, materials, texture or color, whose integrity has been irretrievably lost; or whose physical deterioration or damage makes it infeasible to rehabilitate.

30. "Inventory" means a systematic listing of cultural, historical, architectural or archaeological resources prepared by a City, state or federal government, following standards set forth by federal, state and City regulations for evaluation of cultural properties.

31. "Landscape architectural feature" means the general arrangement of grounds including, but not limited to, the topographic grade water pooling and runoff, types and sites of plant materials, type and sites of surface materials such as decorative bark, rock, stone, gravel, concrete asphalt, brick, and the types and sites of constructions not otherwise deemed to be structured per se, such as fences, retaining walls, decks and other miscellaneous fixtures.

32. "Minor construction" means the act of adding new material to an existing building, structure or site that does not exceed one-hundred (100) square feet of floor area.

33. "Minor Modification" means a change or changes to an approved certificate of appropriateness or certificate of demolition that maintains substantial conformity and represents an improvement on the approved certificate of appropriateness or certificate of demolition.

34. "Multiple resource historic district" means an area defined by City Council, state or federal authority within a defined geographical area that identifies specific cultural resources having historic, architectural, cultural or archaeological significance.

35. "National Register" means the National Register of Historic Places maintained by the Secretary of the Interior.

36. "National Historic Landmark" means a historic property that the Secretary of the Interior has designated a National Historic Landmark.

37. "Object" means a material thing of functional, aesthetic, cultural, historical, archaeological or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.

38. "Ordinary repair and maintenance" means any work, the purpose and effect of which is to correct or prevent any deterioration or decay of or damage to a building, object or structure or any part thereof and to restore same, as nearly as may be practicable, to its condition prior to such deterioration, decay or damage, using the same materials or those materials which are, in appearance, as close as possible to the original.

39. "Reconstruction" means the act or process of reassembling, reproducing or replacing by new construction, the form, detail and appearance of a destroyed or vanished property and its setting as it appeared at a particular period of time by means of the removal of later workmanship, or by the replacement of missing earlier work, or by reuse of original materials.

40. "Rehabilitation" means the act or process of returning a building, object, site or structure to a state of utility through repair, remodeling or alteration that makes possible an efficient contemporary use while preserving those portions or features of the building, object, site or structure that are significant to its historical, architectural and cultural values.

41. "Relocation" means any change of the location of a building, object or structure in its present setting or to another setting.

42. "Resource" means a source or collection of buildings, objects, sites, structures or areas that exemplify the cultural, social, economic, political, archaeological or architectural history of the nation, state or City.

43. "Restoration" means the act or process of accurately recovering the form and details of a building, object, site or structure and its setting as it appeared at a particular period of time by means of the removal of later work or by the repair or replacement of missing earlier work.

44. "Setback" means a distance between a structure and the nearest point of the required yard, as required by this title.

45. "Sign Area" means the entire advertising area of a sign excluding any framing, trim or moldings and the supporting structure.

46. "Significant historic landmark" means

(i) Those buildings, objects, sites or structures of historical, cultural, architectural or archaeological importance whose demolition or destruction would constitute a serious loss to the quality and character of El Paso; and

(ii) inventoried interior spaces designed or intended to be occupied as part of the structure or which are accessible to the public.

(iii) significant historic landmarks are also referred to as landmarks in this chapter.

47. "Site" means the location of a significant event, a prehistoric or historic occupation or activity, or a building, structure or cluster, whether standing, ruined or vanished, where the location itself maintains historical or archaeological value regardless of the value of any existing structure.

48. "Stabilization" means the act or process of applying measures designed to reestablish a weather-resistant enclosure and the structural stability of an unsafe or deteriorated building, object, site or structure while maintaining the essential form as it exists at present.

49. "Structure" means a non-movable work made up of interdependent and interrelated parts in a definite pattern or organization.

50. "Thematic group" means a finite group of resources related to one another in a clearly distinguishable way, by association with a single historic person, event or developmental force, as one building type, design or use, as designed by a single architect, as a single archaeological site form, or as a particular set of archaeological research.

51. "Unreasonable economic hardship" means an economic burden imposed upon the owner which is unduly excessive and prevents a realization of a reasonable rate of return upon the value of his property.

52. "Vista" means a view through or along an avenue or opening, including those along the river's banks, which, as a view corridor, frames, highlights or accentuates a prominent building, object, site, structure, scene or panorama, or patterns or rhythms of buildings, objects, site or structures; to include views of areas at a distance, such as a remote view of the downtown or the mountains.

53. "Zone" means a designated area, within an historic district, which is unique in character, tone, theme, architecture, culture or other ways. A district may be divided into zones, to assist property owners and the Commission in structuring design guidelines and further evaluating applications for certificates of appropriateness. (Ord. 13016 (part), 1996: Ord. 10823 (part), 1992)

20.67.020 Declaration of policy.

A. The City Council finds and declares as a matter of public policy that the protection, enhancement, preservation and use of historic landmarks is a public necessity and is required in the interest of the culture, prosperity, education, safety and general welfare of the people. The purposes of this chapter include the following but are not limited to:

B. To protect, enhance and perpetuate historic landmarks which represent or reflect distinctive and important elements of the City's, region's, state's or nation's architectural, archaeological, cultural, social, economic, ethnic and political history and to develop appropriate settings for such places;

C. To safeguard the City's historic and cultural heritage, as embodied and reflected in such historic landmarks by appropriate regulations;

D. To stabilize and improve property values in such locations;

E. To foster civic pride in the beauty and accomplishments of the past;

F. To protect and enhance the City's attractions to tourists and visitors and provide incidental support and stimulus to business and industry;

G. To strengthen the economy of the City;

H. To promote the use of historic landmarks for the culture, prosperity, education and general welfare of the people of the City and visitors to the City;

I. To prevent the uprooting of architectural products of distinct periods, which may occur without regard to the feasibility of preserving and continuing the use of such landmarks, and without consideration of the irreplaceable loss to the people of the City of the cultural, historic and aesthetic values represented by such landmarks;

(Ord. 13016 (part), 1996: Ord. 10823 (part), 1992)

20.67.030 Historic Landmark Commission Creation.

A. There is created a Commission to be known as the Historic Landmark Commission ("HLC") of the City hereinafter called the Landmark Commission. The Landmark

Commission shall consist of nine (9) members who are residents of the City of El Paso. The nine members shall be appointed by the Mayor and the City Representatives. Each representative shall nominate one member and the Mayor shall nominate one. All cases before the Commission shall be heard by a majority of the number of members currently appointed. All members shall have demonstrated special interest, knowledge, and experience in the architectural, archaeological, cultural, social, economic, ethnic or political history of El Paso. No one business or professional interest shall constitute a majority membership of the Commission. Members shall serve without compensation and shall include two architects.

B. To the extent available in the community, professionals from the disciplines of architecture, engineering, construction industry, history, architectural history, planning, archeology, or other disciplines related to historic preservation such as urban planning, American studies, American civilization, cultural geography, or cultural anthropology shall be given preference for appointment for any remaining membership positions.

C. To the extent all Commission membership positions cannot be filled pursuant to 20.67.030.A and 20.67.030.B, members may include, but shall not be limited to, representatives from the El Paso Association of Home Builders, El Paso Realtor's Association, Ft. Bliss, the El Paso Preservation Alliance, home owner's association serving an historic district, and the El Paso Archeological Society

D. Each member of the Commission shall be appointed for a term of two years, not to exceed two consecutive terms. Members shall elect a chairman and a vice-chairman from the voting membership and shall promptly fill a vacancy in either office.

F. If the total number of members appointed to the Commission at any time is greater than nine, no new member shall be appointed to replace any member whose term has expired or who has resigned or been removed, and the nine-member total shall be achieved by attrition. Notwithstanding the foregoing, should either of the required architects leave the commission, that vacancy shall be filled with another architect.

G. Appointed members wishing to resign their appointed post shall give at least thirty (30) days written notice to the Historic Preservation Officer stating the effective resignation date.

(Ord. 13016 (part), 1996; Ord. 11678 □ 1, 1993; Ord. 10823 (part), 1992)

20.67.040 Historic Landmark Commission Functions.

A. The Landmark Commission shall thoroughly familiarize itself with buildings, interiors, structures, sites, districts, areas and lands within the City that may be eligible for designation as historic landmarks.

1. Establish criteria to be used in determining whether certain buildings, interiors, structures, sites, objects, districts, areas, or lands should be designated as historic landmarks;
2. Initiate designations of local H-overlay properties and historic districts.
3. Create and recommend to City Council for approval, guidelines for designated historic buildings, interiors accessible to the general public, structures, sites and districts to be used as general guides in determining the approval or denial of certificates of appropriateness and certificates of demolition or removal; the guidelines may address any alterations on historic landmarks in order to protect significant architectural, historical, archaeological or cultural elements of the district by listing:

- a. Architectural regulations for the exterior of building, in addition to existing zoning classification, height and area limitations, and

- b. Design regulations for those interiors mentioned above, areas specifically designated as historic interiors, in order to protect significant architectural, historic, archaeological or cultural elements of the district.

The regulations for subdivision 3a and b of this subsection may also include the following:

- i. Acceptable materials for construction,
- ii. Appropriate architectural character, scale and detail,
- iii. Acceptable appurtenances to new and existing structures,
- iv. Acceptable textures and ornamentation,
- vi. Acceptable landscape architectural features.

4. Nominate landmarks, H-overlay properties, and historic districts to the State Historic Preservation Officer (SHPO) for consideration to the National Register of Historic Places or to the Texas Antiquities Landmarks and to review and comment on any National Register nominations submitted to the Historic Landmark Commission upon request of the Mayor and City Council.

B. Prepare a preservation plan which shall be presented to the City Plan Commission for consideration and recommendation to the City Council as a supplement to the Plan for El Paso. The Landmark Commission shall review the preservation plan and the state of preservation of designated historic landmarks annually, insert in the Landmark Commission minutes a report of such review, and take appropriate action on any amendments to the plan deemed necessary. Prior to presenting the preservation plan or any amendment thereto, to the Plan Commission, the Landmark Commission shall hold a public hearing on the preservation plan or the amendment thereto.

C. The Landmark Commission and Planning, Research & Development Department staff may perform certain functions including but not limited to the following:

1. Provide information and counseling to owners of designated historic landmarks;
2. Rule on requested exceptions to the guidelines based upon the overall visual effects of the proposed exceptions;
3. Conduct surveys and maintain an inventory of historic, architectural, archeological and cultural landmarks located within the City.
4. Approve work done on a historic property, regardless of designation, which adheres to the Administrative Review Design Guidelines as approved by City Council. (Ord. 13016 (part), 1996; Ord. 10823 (part), 1992)

20.67.050 Historic Landmark Commission Meetings.

A. The Commission shall meet at least twice a month at a regularly scheduled time when cases have been scheduled for discussion and action by the Landmark Commission with advance notice posted in accordance with the Texas Open Meetings Law. All meetings of the Landmark Commission shall be open to the public. A record shall be kept of pertinent information presented at all public hearings. The Commission shall keep minutes of all its proceedings showing the vote of each member upon each question, or if absent or abstained from vote, indicating such fact. All records of the Commission shall be kept by the recording Secretary of the Commission.

B. Meetings may be called upon request of the chairman, or upon written request of a majority of currently appointed members. Upon the filing of a completed application for a certificate of appropriateness, but not a certificate of demolition, for an H-overlay property, the Commission shall take action thereon within forty-five (45) days. An application is deemed complete when all 20.67.140 required items are received by the historic preservation officer. If the Commission fails to act on an application within forty-five (45) days, such application shall be deemed to have been recommended for approval and a certificate showing the filing date and the failure to take action on the application within forty-five (45) days shall be issued by the Commission on demand. The applicant may withdraw the application before the forty-five (45) day period expires. The applicant may also receive a deferral of action on the application, if additional time is required for the preparation of information or for research required by the Landmark Commission. A deferral shall waive the forty-five day time period requirement for

action by the Landmark Commission. A deferral request shall be submitted in writing by the applicant to the historic preservation officer prior to the date of the scheduled Landmark Commission hearing. The applicant shall be present at the Landmark Commission hearing when the application is heard. Action taken at a meeting shall require the affirmative vote of a majority of the members present and eligible to vote on the proposed action (a person who is present and eligible to vote shall not abstain).

C. The historic preservation officer shall act as Secretary of the Landmark Commission and shall attend and keep the minutes of all meetings.

D. No member of the Landmark Commission shall vote or participate as a member in any matter that materially affects the financial interest of that member pursuant to the ethics ordinance found in Chapter 2.92 of the City of El Paso Municipal Code. Such member shall give notice and provide reasons for abstention from voting prior to the taking of a vote.

E. The Landmark Commission may appoint subcommittees consisting of members of the Landmark Commission and when desirable to the Landmark Commission, the general public, to review applications submitted as well as issues relevant to the full body. Such subcommittees may meet as directed by the Landmark Commission. If directed by the Landmark Commission, subcommittees may perform, but shall not be limited to, the following functions:

1. Review applications and plans prior to the meeting of the Landmark Commission;
2. Prepare recommendations on each application to be presented to the Landmark Commission at their regularly scheduled meeting;
3. Make suggestions and recommendations which may include sketches and general drawings to assist applicants. (Ord. 13016 (part), 1996: Ord. 10823 (part), 1992)
4. Make recommendations to the full body of the Commission on issues relevant to Archeology, design, aesthetics, and any other issue for which the Commission has jurisdiction.

20.67.060 Historic Preservation Officer.

A. The historic preservation officer shall be the local preservation officer with duties including, but not limited to:

- a. Serve as the local preservation contact and/or liaison for: the City of El Paso, the community, Texas Historical Commission, and the National Park Service.
- b. Accept and process cases before the Historic Landmark Commission as outlined in Section 20.67.140.
- c. Coordinate research efforts as requested by the Landmark Commission.
- d. Actively seek grants to assist the Historic Preservation Program.
- e. Accept and process applications for the Tax Abatement Program for Historic Properties.
- f. Maintain and update the inventory of historic properties.
- g. Maintain and update the database of cases processed before the Landmark Commission.
- h. Approve Administrative Review applications as specified in the Administrative Review Design Guidelines.

20.67.070 Procedure for Designation of Historic Landmarks and Districts.

A. Recommendations for historic landmark or district designation shall be made by the Landmark Commission to the City Council through the City Plan Commission for City Council consideration.

B. Requests for designation by the public shall be made on a form obtained from the Planning, Research & Development Department. Completed request forms shall be returned to

the Planning, Research & Development Department for processing. In the event the Landmark Commission does not recommend an applicant's request for designation of a resource, the applicant may petition the City Plan Commission for a hearing, following procedures set forth in 2.08 of the El Paso Municipal Code.

D. The Landmark Commission shall hold a public hearing on all proposed ordinances. Notice shall be given as required by Section 211.007, Texas Local Government Code.

E. Any property owner may request a decision from the Landmark Commission on whether it intends to recommend to the Plan Commission that a property be designated a historic landmark. The Landmark Commission shall review and forward any responsive recommendations to the City Plan Commission within forty-five days.

F. The designation of an historic landmark may be amended or removed using the same procedure provided in this section for the original designation.

20.67.080 Historic Landmarks Designation Criteria.

In making designations set forth in this section, the City Council shall consider, but shall not be limited to, one or more of the following criteria:

- A. Character, interest or value as part of the development, heritage or cultural characteristics of the City, State or the United States;
- B. Recognition as a Recorded Texas Historic Landmark, a National Historic Landmark, or entry into the National Register of Historic Places;
- C. Embodiment of distinguished characteristics of an architectural type or specimen;
- D. Identification as the work of an architect or master builder whose individual work has influenced the development of the City;
- E. Embodiment of distinguished elements of architectural design, detail, materials or craftsmanship which represent a significant architectural innovation;
- F. Relationship to other distinctive buildings, sites or areas which are eligible for preservation according to a plan based on architectural, historic or cultural motif;
- G. Portrayal of the environment of a group of people in an area of history characterized by a distinctive architectural style.
- H. Archaeological value, in that it has produced or can be expected to produce data affecting theories of historic or prehistoric interest;
- I. Exemplification of the cultural, economic, social, ethnic or historical heritage of the City, state or the United States;
- J. Location as the site of a significant historic event;
- K. Identification with a person or persons who significantly contributed to the culture and development of the City, region, state or the United States. (Ord. 13016 (part), 1996: Ord. 10823 (part), 1992)

20.67.090 Historic Landmarks Designation.

A. The City Council may designate buildings, structures, sites, districts, areas and lands in the City as historic landmarks and define, amend and delineate the boundaries thereof. The suffix "H" shall appear after the zoning designation of those buildings, structures, sites, districts, areas and lands which the City Council designates as historical landmarks. Such designation shall be in addition to any other designation established under this chapter. The zoning map shall reflect the designation of an historic landmark by the letter "H" as a suffix to any other use designation established in this chapter.

B. Council may use the following designations for individual buildings, objects, sites or property and which are in an historic district or designated with an "H" overlay:

- 1. Exceptional historic landmark;
- 2. Significant historic landmark; and

3 Contributing property
as those terms are defined in Section 20.67.010.

C. Any H-overlay properties previously classified as non-contributing are hereby classified as contributing. Any H-overlay properties previously classified as contributing are hereby classified as significant historic landmarks. Any H-overlay properties previously classified as Landmarks are hereby classified as exceptional historic landmarks.

(Ord. 13016 (part), 1996: Ord. 10917, 1992; Ord. 10823 (part), 1992)

20.67.100 National Register Nomination Participation

- A. Upon the Landmark Commission's receipt from the National Register Programs office of National Register nomination materials accompanied by a preliminary National Register programs office staff recommendation in regard to form, content, and merit of proposed nomination, the Landmark Commission shall forward a copy to the Mayor's office and each shall separately notify the National Register programs office, owner of subject property, and applicant as to their opinion within 60 days.
- B. Prior to submittal of opinions, the local preservation officer shall be responsible for verification of the accuracy of the nomination, including the names of all owners of properties included in the nomination. The local preservation officer shall also provide public information meetings concerning the proposed nomination wherein reasonable opportunity for public comment is provided. The local preservation officer shall provide results of the research and public meetings separately to the Mayor and Landmark Commission prior to their submittal of separate opinions regarding any nomination.

20.67.110 Recording of Designation.

Upon passage of an historic landmark designation ordinance, the City clerk shall file a copy of the ordinance with City and County tax assessors and in the Official Records of Real Property of El Paso County together with a notice verifying H-Overlay designation of the subject property. The City Clerk shall also send a copy of such notice to the owner or owners of the subject property. (Ord. 13016 (part), 1996: Ord. 10823 (part), 1992)

20.67.120 Historic Landmark Designation to coexist with other use classifications.

Use of classifications as to all property which may be included in a historic landmark designation shall continue to be governed by the comprehensive zoning ordinance of the City and the procedures therein established. (Ord. 13016 (part), 1996: Ord. 10823 (part), 1992)

20.67.130 Options for the Commission to Recommend Acquisition of Historic Landmarks.

The following options shall be available to the Commission, for recommendation to the City Council of El Paso, for acquisition of historic landmarks:

- A. If the Landmark Commission finds that buildings, structures, sites, districts, land or areas cannot be preserved without acquisition, the Landmark Commission shall recommend to City Council that the fee or lesser interest of the historic landmark in question be acquired by gift, devise, purchase, eminent domain, or otherwise pursuant to the City Charter and state and federal law;
- B. Formulate a program for private and public action which will state the role of various City agencies in preservation of historic landmarks;
- C. Suggest sources of funds for preservation and restoration activities and acquisitions, to include federal sources, state sources private and foundation sources, as well as municipal sources;
- D. Recommend, to the proper agencies, incentives designed to encourage historical preservation;

E. The Commission may recommend to City Council, within ten days of the hearing before the Commission, or at the Council's next regular meeting, that the historic landmark be acquired. Council will have thirty days to state an affirmative intent to negotiate with the historic landmark owner and, if successful, the Council shall complete such a purchase within a reasonable time thereafter. (Ord. 13016 (part), 1996)

20.67.140 Alterations and changes to landmarks and H-overlay properties; Administrative Review Approval.

A. No person or entity shall construct, reconstruct, alter, change, remove, demolish or fail to maintain, any of the following, unless a certificate of appropriateness or a certificate of demolition has been approved by the Landmark Commission;

1. Any permanent feature on a property listed as a Texas Antiquities Landmark or on the national register of historic places;

2. Any building, object, site, landscape architectural feature, or group of such designated with an H-overlay or as a historic landmark as defined by this chapter and provided by the El Paso City Council.

B. No building permit shall be issued for such proposed work until a Certificate of Appropriateness has first been issued by the Landmark Commission or approval granted through Administrative Review. The Certificate of Appropriateness or Administrative Review Approval shall be in addition to and not in lieu of any building permit that may otherwise be required.

C. The Landmark Commission shall grant, grant with modifications, or deny certificates of appropriateness or certificates of demolition based on one of the following sets of criteria, which shall also apply to any approval granted through the administrative review process:

1. When City Council has adopted architectural and design guidelines for a particular district, those guidelines shall control, except that the Commission may make approved exceptions to the guidelines in an effort to maintain the historic integrity of an H-overlay property, in which case the approved exception shall control in that particular case.

2. When no guidelines have been adopted for a particular district, the guidelines from the district most similar in character, design, materials, workmanship, time of construction shall apply; or contained in the "Guide to the Identification and Preservation of El Paso's Cultural, Historic and Architectural Resources."

3. When the preceding does not provide guidelines applicable to the project, then the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings shall apply (36 CFR Part 68) (U.S. Department of the Interior, National Park Service, Preservation Assistance Division. U.S. Government Printing Office Document Number: 1994 0 - 160-280 QL 3, Washington, D.C., or most current revision).

D. Procedure when applying for a Certificate of Appropriateness and Certificate of Demolition.

1. For the exterior of a designated historic landmark, or a designated historic interior, the applicant shall submit the following:

a. One (1) copy of completed Application for Certificate of Appropriateness or Application for Certificate of Demolition form. Applications must be typewritten or printed in ink in legible form. Completed applications shall be accepted and scheduled for Historic Landmark Commission hearing on a first-come first-serve basis.

b. One (1) copy of a detailed site development plan and construction drawings scaled to 1" = 20' showing the following:

- i. Legal description of the property;
- ii. Lots lines with dimensions of the areas;
- iii. Location and arrangement of structures;

- iv. Location, type, and arrangement of windows, doors, & other openings where applicable; (Include sample of each type of window or door from brochure, catalog or manufacturer)
 - v. Square footage of structure(s), including number of dwelling units;
 - vi. Required yards and setbacks;
 - vii. Proposed building materials (i.e., concrete, stucco, wood, metal);
 - viii. Sample of proposed color(s) & texture (i.e., color swatch with name, manufacturer, & number)
 - ix. Open spaces, where applicable;
 - x. Landscaped planted areas, where applicable;
 - xi. Architectural design of buildings, modification, addition, or new construction (floor plan(s) and elevations);
 - xii. Construction details for roof, walls, floor, and foundation
 - c. One (1) copy of a proof of ownership or other legal document demonstrating that the individual(s) or corporation making the application for a Certificate of Appropriateness or Certificate of Demolition is the current property owner such as a certificate from a title company or warranty deed. An individual or entity who has a contract to purchase property may also submit an application with the owner's written authorization.
 - d. A copy of any deed restrictions, existing or proposed, on the property shall also be submitted.
 - e. Two (2) 8½" x 11" copies of the detailed site development plan and scaled construction drawings at 1" = 20'. Each copy must contain the address and legal description of the property.
- E. Procedure when applying for Administrative Review Approval
- 1. Administrative review will be conducted by the historic preservation officer in accordance with the administrative review design guidelines, for items listed below.
 - 2. These items will be reviewed and, if they conform to the guidelines, will be approved by the historic preservation officer and returned to the Building Permits & Inspections Department:
 - a. Landscape materials including vegetation, irrigation, and xeriscaping, in the front, rear, side yards, and parkways; Include the following:
 - i. Open spaces, where applicable, including square footage;
 - ii. Landscaped planted areas, where applicable, including square footage; Type of landscape or surface material to be replaced; Include a sample of the proposed surface material.
 - b. New fencing on the front, rear and side yards; Include the following:
 - i. Location and type of proposed fencing;
 - ii. Type of proposed fencing including material and color;
 - iii. Chain-link fence is not an acceptable material for approval under Administrative Review.
 - c. Wrought iron security coverings for windows and doors; Include photographs and showing the following:
 - i. Location of proposed security grills;
 - ii. Type of proposed security grill including material and color.
 - d. Exterior accessibility ramps when placed in non-character-defining façades; Include the following:
 - i. Location of proposed accessibility ramp;
 - ii. List of materials and colors.

- e. Skylights and air-conditioned units when placed in non character-defining facades or visible from the front facade; Include the following:
 - i. Location of proposed skylight or air-conditioned unit;
 - ii. List of materials and colors;
 - iii. Sample of skylight or air-conditioned unit. (Include sample from brochure, catalog or manufacturer)
- f. Off-premise and on-premise commercial and residential signs within historic districts in accordance with Section 20.66.340 and 20.66.350 as applicable; Include the following:
 - i. Location of proposed signage;
 - ii. List of materials and colors;
 - iii. Sketch of signage including total square footage
- g. Replacement of garage or household exterior doors that match the original doors. Include sample of door from brochure, catalog or manufacturer;
- h. Walkways, driveways, and aprons; Include location and materials.
- i. Swimming pools and tennis courts where permitted by sufficient area in the side and rear yard;
- j. Routine maintenance, including but not be limited to: painting, re-roofing, repair of walks, driveways, fences;
- k. Placement of fire escapes when placed in non-character-defining façades and where allowed by other City Ordinances.
- l. Installation of windows similar to the original in appearance and strength of purpose, regardless of construction materials Include sample of window from brochure, catalog or manufacturer;
- m. Installation of temporary portable sheds when placed in non character-defining facades and not in the front or side yards. Shed shall not exceed one hundred twenty square feet (120 sq. ft.) in size. Colors shall complement the existing historic structure.
- n. Installation of outdoor playground equipment when placed in non character-defining facades and not in the front or side yards.
- o. Painting of previously painted surfaces other than brick or any type of stone with colors compatible with the historic district;
- p. Installation of outdoor lighting fixtures and security fixtures when such elements complement the design context of the structure;
- q. Minor construction work when placed in a non character-defining façade and not visible from the street. Any minor construction and/or alteration found to have a detrimental impact on the historic character of the structure or historic district shall be subject to a certificate of appropriateness as outlined in 20.67.130 Subsection (C).

3. Current photographs for all Administrative Review Approvals may be requested to be furnished by the applicant.

4. If the applicant disagrees with the administrative decision, he may appeal to the Landmark Commission, through the application process.

E. The Landmark Commission, upon ten days' written notice to the applicant, shall hold a hearing on the application. Upon review, if the Landmark Commission finds the proposed work of a nature which will not adversely affect any significant architectural or historical feature of a designated historic landmark, and is appropriate and consistent with the spirit and purposes of this section, it shall forward a certificate of appropriateness to the applicant within ten days after the public hearing.

F. If the Landmark Commission finds that the proposed work will adversely affect or destroy any significant architectural or historical feature of the designated historic landmark or

historic interior, or is inappropriate or inconsistent with the spirit and purposes of this section, it shall render a denial of the request and forward the disapproved application to the applicant within ten days after the public hearing. The Landmark Commission shall state the reason(s) for its disapproval the changes necessary for approval of the application.

G. If no action has been taken by the Landmark Commission within forty-five (45) days of the receipt of a completed application, a certificate of appropriateness shall be deemed issued by the Landmark Commission. However, a certificate of demolition shall never be issued before the expiration of 60 days of receipt of a completed application.

H. No change shall be made in the application for any building permit after the issuance of a certificate of appropriateness, without submittal of a request for minor modification as provided for in Section 20.67.150, otherwise, a new application to the Landmark Commission and approval thereof in the same manner as previously provided shall be submitted.

I. After a decision is reached by the Landmark Commission denying an application for certificate of appropriateness, no application for a Certificate of Appropriateness for a given property may be resubmitted within twelve months from date of action by the Landmark Commission unless the Landmark Commission finds that a substantial change in conditions has occurred, or that applicant has resubmitted in conformance with subsection 3.

10. Applicants aggrieved by a decision of the Landmark Commission may appeal to City Council, using the procedure identified in Section 20.67.250.

(Ord. 13152 □ 393, 1997; Ord. 13016 (part), 1996; Ord. 11678 □ 3, 1993; Ord. 10823 (part), 1992)

20.67.140 Modification of Certificate of Appropriateness.

A. If an applicant desires to make minor modifications to the Certificate of Appropriateness when he prepares final working drawings, he may apply to the historic preservation officer for a minor modification of the approved Certificate of Appropriateness.

B. If the historic preservation officer finds that:

1. The minor modifications are in substantial conformity (see definition of "substantial conformity") to the approved Certificate of Appropriateness; or

2. The minor modifications represent an improvement in the approved Certificate of Appropriateness, he/she may authorize such modifications, so inform the applicant in writing, and building permits may be issued and construction proceed.

C. Changes other than such minor modification shall require new hearings and new approvals in the same manner as for review of the original Certificate of Appropriateness.

20.67.150 Economic Hardship Application Procedure.

A. After receiving written notification from the Commission of the denial of any application, an applicant may commence the economic hardship application process discussed herein at no additional cost. No building permit or demolition permit shall be issued through this procedure unless the Commission makes a finding that, through no fault of his own, the owner cannot otherwise realize a reasonable rate of return on, or sell his property at a reasonable price to an individual or entity interested in preserving it.

B. The applicant and the Commission shall consult in good faith in a diligent effort to seek an alternative that will result in preservation of the property.

C. The Commission shall hold a public hearing on the application within thirty (30) days from the date the complete application is received by the Commission.

D. If the Commission approves the application it shall forward a certificate of appropriateness to the Applicant within ten days after the public hearing. However, a certificate of demolition shall not be provided to the applicant until at least sixty days following the date of submittal of a completed application.

E. If the Commission denies the application, it shall forward the disapproved application to the applicant within ten days after the public hearing. The Commission shall state the reasons for its disapproval

F. If no action has been taken by the Commission within sixty days of the original receipt of the economic hardship application by the Commission, a certificate of appropriateness or certificate of demolition shall be deemed to have been issued by the Landmark Commission, and the historic preservation officer shall so advise the applicant.

G. No change shall be made in the application for any building permit after the issuance of a certificate of appropriateness without submittal of a new application to the Landmark Commission and approval thereof as previously provided.

H. After a decision is reached by the Landmark Commission denying an application, a re-submittal of application shall not be accepted for additional hearing within a twelve-month period from the date of final decision, unless the Commission determines, after reviewing a written request of the applicant, that there has been a change in conditions sufficient to warrant an earlier rehearing.

I. Applicants aggrieved by a decision of the Landmark Commission may appeal to City Council, using the procedure identified in Section 20.67.250. (Ord. 13152 □ 394, 1997; Ord. 13016 (part), 1996; Ord. 11678 □ 4, 1993; Ord. 10823 (part), 1992)

20.67.160 Enforcement.

All work performed pursuant to a certificate of appropriateness or administrative review shall conform to any requirements included therein. It shall be the duty of the City's Building Official to inspect any such work to assure compliance. In the event work is found that is not being performed in accordance with the certificate of appropriateness or administrative review, the City's Building Official shall issue a stop work order and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop work order is in effect.

20.67.170 Historic Landmark Demolition or Removal.

A. An application for demolition or removal of a designated historic landmark or H-overlay property shall be filed with the Director of Building Permits & Inspections who shall forward it to the Landmark Commission within five days of receipt. The Landmark Commission shall then hold a public hearing on the application after at least ten days written notice to the applicant. The Landmark Commission shall consider the historic value, state of repair, reasonableness of the cost of restoration or repair, the existing and potential usefulness, including economic usefulness of the building, purposes behind preserving the structure as a historic landmark, neighborhood character, and all other factors it finds appropriate. The Commission shall delay the proposed demolition for a period of at least sixty (60) days from the date of request to demolish as is required pursuant to 13 Texas Administrative Code 15.6. After such delay, the Landmark Commission may approve or deny the application in whole or in part, or suspend action on it for a period not to exceed six months. When the Landmark Commission determines that one or more of these criteria are met, the application for a Certificate of Demolition shall be denied.

B. If the Commission determines, based on the evidence presented, that the cost of restoration or repair would render the property incapable of earning a reasonable return, the Commission may recommend to City Council, within ten days of the hearing before the Commission, or at the Council's next regular meeting, that the property be acquired pursuant to Section 20.67.120(A). Council will have thirty days to state an affirmative intent to negotiate with the property owner and, if successful; to act on such a purchase within a reasonable time thereafter. If Council does not act affirmatively, or the Commission determines that the interest of preserving historical values will not be adversely affected by such demolition or removal or that the interest of preserving historical values can best be served by the removal of the structure to

another specified location, it shall issue a certificate of demolition or a certificate of removal to the applicant within ten days therefrom, or sixty days of receipt of a completed application, whichever comes later.

C. If no action has been taken by the Landmark Commission within ninety (90) days of original receipt by the Landmark Commission of the application, a certificate of demolition or a certificate of removal shall be deemed issued by the Landmark Commission and the Director of Building Permits & Inspections shall so advise the applicant.

D. After a decision is reached by the Landmark Commission denying an application for a certificate of demolition or a certificate of removal, a re-submittal of application for such certificate will not be accepted for additional hearing within a twelve-month period from the date of final decision, except upon written request of the applicant indicating that there has been a change in conditions sufficient to warrant an earlier rehearing.

E. Subsections A through E of this section shall not apply whenever the Deputy Director for Engineering, the Director of Building Permits & Inspections or the Fire Chief or designee proceeds under Section 18.52.040. In such case, the City Council after the appropriate notice and hearing, may order the building or structure or part thereof repaired, removed or demolished as provided by Section 18.52.040 without regard to the "H" designation on the building or structure or part thereof; but in no event may the City Council take such action unless it determines that the building or structure or part thereof is unsafe and dangerous so as to endanger persons or property or is a fire hazard, and that such danger or hazard is so great and so immediate that subsections A through D of this section should be circumvented to prevent immediate and substantial harm to persons or property. Such a determination by the City Council shall be final and there shall be no appeal. (Ord. 13152 □ 395, 1997; Ord. 13016 (part), 1996; Ord. 11678 □ 5, 1993; Ord. 10823 (part), 1992)

20.67.180 Prevention of Demolition by Neglect.

A. Applicability. All historic landmarks shall be preserved against detrimental deterioration and kept free from certain structural defects by the owner or legal custodian who shall repair such building, object, site, or structure if it is found to have any of the following defects:

1. Deterioration of roofs or other horizontal members;
2. Deterioration of chimneys;
3. Deterioration or crumbling of stucco or mortar;
4. Ineffective waterproofing of exterior walls, roof or foundations, including broken windows or doors; or
5. Deterioration of any feature so as to create a hazardous condition which could lead to the claim that demolition is necessary for the public safety.

B. Upon the Commission's receipt of a claim of detrimental deterioration of a landmark, it shall notify the owner in writing, informing the owner of the complaint and specifics of the alleged detrimental deterioration, requesting that the owner appear before the Commission for a fuller and more accurate determination of the existence of detrimental deterioration.

C. If the Landmark Commission determines after public hearing that there is detrimental deterioration as described in subsection A, the owner or legal custodian shall be given a reasonable time and opportunity to cure. The owner or legal custodian must comply with all requirements of requesting a certificate of appropriateness from the Commission. This may be requested at the time of the hearing in subsection B of this section at no cost to the property owner. Property owners may appeal to City Council under Section 20.67.250. (Ord. 13016 (part), 1996; Ord. 10823 (part), 1992)

20.67.190 Penalty for demolition or alteration without a permit.

A. It is unlawful to construct, reconstruct, structurally alter, remodel, renovate, restore, demolish or raze any historic landmark in violation of this chapter. The City, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful violation and to restrain, correct or abate such violation, to prevent any illegal act, business or maintenance in and about such premises.

B. In addition to any remedies allowed pursuant to Chapter 20.68 or other law and exercised under subsection A, a person, corporation or entity is liable to the City if the person demolishes, or causes to be demolished, or otherwise adversely affects the structural, physical or visual integrity of an historic landmark without first obtaining a permit from the building services department and a certificate of demolition from the Landmark Commission as required by this chapter. The structure or property must have a designated "H" overlay, individually or as part of an historic district.

C. If the structural, physical or visual integrity of the historic landmark is adversely affected to the extent that it may not feasibly be substantially restored to its former level, damages are equal to the cost of constructing, using as many of the original materials as possible, a new structure that is a reasonable facsimile of the historic landmark as well as the cost of attorney's, architect's and appraiser's fees and other costs related to the enforcement of this section. If it is feasible to restore the structural, physical or visual integrity of the historic landmark substantially to its former level, the damages are equal to the cost of the restoration, using as many of the original materials as possible and the cost of attorney's, architect's and appraiser's fees and other costs related to the enforcement of this section.

D. Instead of accepting monetary damages, the City Council may permit the liable person to construct, within a reasonable time and using as many of the original materials as possible, a structure or property that is a reasonable facsimile of the demolished historic landmark or to restore, using as many of the original materials as possible, the historic landmark and to pay the cost of attorney's, architect's and appraiser's fees and other costs related to the enforcement of this section. (Ord. 13152 □ 396, 1997; Ord. 13016 (part), 1996; Ord. 10823 (part), 1992).

20.67.200 Ad Valorem Tax Incentives for Historic Properties

A. Ad Valorem Tax Incentives for historic properties shall be approved by City Council by resolution or ordinance in accordance with the provisions of this section when money is available for such incentives.

B. Application. Application for an historic structure preservation tax exemption shall be filed with the Landmark Commission. The Landmark Commission shall be the agent of the City for purposes of administering the provisions herein.. Each application shall be signed and sworn to by the property owner and shall include the following:

1. Verification that the property is designated with an H-overlay in the Official Zoning Map for the City of El Paso.
2. Verification that the property complies with applicable zoning regulations regarding its use and location.
3. Verification that the improvements are consistent with design guidelines adopted by City Council, and if no such standards have been adopted, then by the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.
4. The legal description of the property proposed for certification.
5. An affidavit by the owner describing the historic significance of the structure in need of tax relief.
6. A final complete set of plans for the historic structure's restoration and rehabilitation in accordance with 20.67.140.
7. A Statement of costs for the restoration and rehabilitation work.

8. A projection of the estimated construction time and the predicted completion date of the historic restoration or rehabilitation.
 9. Authorization by the owner to the Chair of the Landmark Commission and the city tax assessor-collector to visit and inspect the property proposed for certification, and the records and books of the owners as necessary to certify that the property in question is in substantial need of restoration or rehabilitation.
 10. Detailed statement of the proposed use for the property.
- Each application shall contain sufficient documentation confirming or supporting the information submitted herein.

C. Landmark Commission Certification.

1. Upon receipt of the sworn application, together with the fee as specified by resolution or ordinance, the Landmark Commission shall make an investigation of the property and shall certify the facts to the city tax assessor-collector within thirty days along with the Landmark Commission's documentation recommending approval or disapproval of the application for exemption.
2. Tax Assessor-Collector Approval. Upon receipt of the certified application for tax exemption as well as the recommendation of the Landmark Commission, the city's tax assessor-collector shall within thirty days approve or disapprove eligibility of the property for tax relief pursuant to this ordinance. In determining eligibility, the tax assessor-collector shall first determine that all the requirements of this ordinance have been complied with and that only the historic structure and the land reasonably necessary for access and use thereof is to be provided favorable tax relief.
3. City Council Approval shall be by resolution or ordinance when money is available for this incentive.

D. Verification of completion. Upon completion of the restoration and rehabilitation, the certified applicant shall submit a sworn statement of completion acknowledging that the historically significant site in need of tax relief to encourage preservation has been substantially rehabilitated or restored as certified by the Landmark Commission. The Landmark Commission, upon receipt of the sworn statement of completion, but no later than thirty days thereafter, shall make an investigation of the property and shall approve or disapprove the fact that the property has been substantially completed as required for certification. If the Landmark Commission determines that it has not been substantially completed as so required, then the certified applicant shall be required to complete the restoration or rehabilitation in order to secure the tax exemption provided herein. If the verification of completion is favorable, the Landmark Commission shall notify the tax assessor-collector in writing of compliance. Thereafter, the tax assessor-collector shall provide the property with the historic tax exemption.

E. Applicability. This exemption shall begin on the first day of the first tax year after verification of the completion of the preservation required for certification and shall be applicable for ten full tax years; provided:

1. The building shall comply with the applicable zoning regulations for its use and location;
2. The historic character of the property and the improvements which qualified the property for an exemption must be maintained.
3. The deed, grant, sale, bequest, devise or otherwise transfer of ownership in the property, except the donation of an historic easement on an exempt structure which donation shall qualify as a charitable contribution under Section 170(f)(3) of the Internal Revenue Code and its regulations as now exist or as they may hereafter be amended, shall cause the exemption provided herein to terminate on the last day of the tax year on which such transfer occurs.

20.67.210 Historic Landmark Recognition.

A. When approved by City Council resolution, the Landmark Commission may honor property owners with an Historic Building Plaque Award. The award will be based on the following:

1. Nominations will be open to the public sector, private sector, and general public each calendar year that funding for the plaques is available. The deadline for submission of nominations will be September 1st. Nomination forms will be made available by the historic preservation officer. A Landmark Commission subcommittee may recommend not more than five (5) structures to the Landmark Commission. Final decision, by the Landmark Commission, will be made at the regularly scheduled meeting.
2. The Commission shall award a maximum of five (5) plaques each calendar year.
3. Criteria for making the award are as follows:
 - a. The building must be at least fifty (50) years old;
 - b. The building must have an H-overlay, be a recorded Texas Historic Landmark, or listed on the National Register of Historic Places;
 - c. The building must have been rehabilitated and/or maintained in good condition, and plans prepared for the work approved by the Landmark Commission, evidenced by issuance of a Certificate of Appropriateness;
 - d. If the building was rehabilitated using state, federal, or Community Development Block Grant funding, plans must have been reviewed and approved by the State Historic Preservation Office (SHPO);
 - e. At the time of the award, the building must be in compliance with all municipal codes and ordinances.
 - f. Award winners may be honored at a subsequent City Council Meeting.
 - g. Recipients are required to display the award on the facade of the structure. Any replacement plaques will be acquired at the owner's expense.

20.67.220 Notice.

Any notice required to be given under this chapter shall be by certified mail, return receipt requested, postage prepaid, to the addressee at his last known mailing address. (Ord. 13016 (part), 1996: Ord. 10823 (part), 1992)

20.67.230 Severability.

The terms and provisions of this chapter are severable and shall be governed by Section 1.04.060. (Ord. 13016 (part), 1996: Ord. 10823 (part), 1992)

20.67.240 Zoning board of adjustment.

This chapter is not to be construed as conferring any jurisdiction on the zoning board of adjustment in matters pertaining to historic landmark preservation. (Ord. 13016 (part), 1996: Ord. 10823 (part), 1992)

20.67.250 Appeal to the City Council.

Any applicant or the owner of any property located within three hundred feet of any landmark, or the owner of any property within the same historic district as the subject of the appeal, who is aggrieved by a ruling of the Commission concerning that landmark under the provisions of this section, may within fifteen days after the ruling of the Commission, appeal to the City Council by filing written notice of such appeal with the City clerk. Following a public hearing to be held within sixty days of the filing of such notice of appeal, the City Council may, by a simple majority vote, uphold or overturn any ruling of the Commission made pursuant to this chapter. (Ord. 13016 (part), 1996: Ord. 11678 □ 6, 1993: Ord. 10823 (part), 1992).